

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

TONY and DOROTHY TURNER,

Plaintiffs,

v.

**AMERICAN INTERNATIONAL
GROUP, INC.; et al.**

Defendants.

CIVIL ACTION NO. 3:05-CV-00753

DEFENDANTS' MOTION TO STAY THE RULE 16(b) SCHEDULING ORDER

COME NOW Defendants American General Financial Services of Alabama, Inc. (improperly designated as American General Finance Inc. in the complaint), as successor to American General Finance, Inc., Merit Life Insurance Company, and Yosemite Insurance Company (hereinafter collectively referred to as "Defendants"), by and through their undersigned counsel, appearing specially so as to preserve any and all defenses available under Rule 12 of the Federal Rules of Civil Procedure and specifically preserving the right to seek arbitration pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1, *et seq.*, and hereby move this honorable Court for an order staying the Court's Uniform Scheduling Order pending resolution of the parties' remand-related issues. In support thereof, Defendants show unto the Court the following:

On or about July 7, 2005, Plaintiffs filed the present action against Defendants in the Circuit Court of Macon County, Alabama, CV-05-136, alleging certain putative misconduct with respect to loans obtained in or about 1995 and the sale of credit insurance in connection therewith. On or about August 8, 2005, Defendants removed the present action to this Court on

diversity jurisdiction grounds under 28 U.S.C. § 1332(a). On or about September 6, 2005, Plaintiffs filed a Motion to Remand arguing against the existence of diversity jurisdiction. On or about September 9, 2005, Defendants filed a Motion for an Extension of Time to Respond to Plaintiffs' Motion to Remand for the Purpose of Conducting Remand-Related Discovery ("Motion to Conduct Remand-Related Discovery"). On September 20, 2005, this Court heard oral arguments on all pending motions. To date, no order has been entered regarding Plaintiffs' Motion to Remand or Defendants' Motion to Conduct Remand-Related Discovery.

On September 15, 2005, this Court entered a Rule 16(b) Uniform Scheduling Order, setting various deadlines for the completion of discovery and the filing of motions in the present action. In addition, the Court set this matter for trial in May, 2006. Due to the pendency of the remand issues, including Defendants' request to conduct remand related discovery, the parties have not engaged in the litigation process, including discovery, and many of the important deadlines in the Uniform Scheduling Order are approaching, including the trial date. As a result, Defendants respectfully request this Court to stay the Uniform Scheduling Order pending resolution of the parties' remand-related issues. Defendants do not request a stay of remand related discovery, should the Court grant Defendants' Motion to Conduct Remand Related Discovery.

Respectfully submitted,

s/ Matthew T. Mitchell

Robert H. Rutherford (RUT002)

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CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2005, I electronically filed the foregoing Motion to Stay the Rule 16(b) Scheduling Order with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: Jere L. Beasley, Thomas J. Methvin, C. Lance Gould, Thomas Julian Butler, David A. Elliott, Robert H. Rutherford, Jeffrey M. Grantham, and John Thomas Aquina Malatesta.

s/ Matthew T. Mitchell
OF COUNSEL